

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

TONY FRENCH,

Plaintiff,

2:15-cv-1521-CL

v.

FINDINGS AND
RECOMMENDATION

U.S. DEPARTMENT OF
JUSTICE, et al.,

Defendants.

CLARKE, Magistrate Judge.

Plaintiff, an inmate in the custody of the Oregon Department of Corrections, filed a "Notice of Claim" apparently¹ alleging that he sent document to the Department of Justice and that they were not returned to him.

By Order (#6) entered November 4, 2015, plaintiff's complaint was dismissed for failure to state a claim. The

¹Plaintiff's pleading is barely legible.

deficiencies of the complaint were explained to plaintiff and he was allowed to file an amended complaint.

On December 7, 2015, plaintiff filed an amended complaint (#7). However, the amended complaint does not cure the deficiencies that led to the dismissal of the original complaint.

As with plaintiff's original complaint, the (handwritten) amended complaint is difficult to decipher. Although specific individuals are named as defendants, there are not factual allegations against any specific individual. Plaintiff has not alleged a proper federal jurisdictional basis or complied with the requirements of Fed. R. Civ. P. 8(a) which requires a "short and plain statement of the claim." Plaintiff apparently alleges that he sent documents to the Department of Justice and that they were not returned. Beyond that plaintiff's allegations are unintelligible.

Based on the foregoing, plaintiff's amended complaint (#7) should be dismissed for failure to state a claim. Because it is apparent that the deficiencies of the complaint cannot be cured by amendment, the dismissal should be with prejudice. The Clerk of the Court should be directed to enter a judgment dismissing this action.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice

of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

Any appeal from an order adopting this Findings and Recommendation or judgment dismissing this case would be frivolous and not taken in good faith. Therefore, plaintiff's in forma pauperis status should be revoked.

DATED this 11 day of December, 2015.



Mark D. Clarke
United States Magistrate Judge